

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

UNITED RESOURCE RECOVERY  
CORPORATION,

Plaintiff,

-against-

RAMKO VENTURE MANAGEMENT,  
INC. and JOHN KOHUT,

Defendants.

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RAMKO VENTURE MANAGEMENT,  
INC.,

Third-Party Plaintiff,

-against-

CARLOS GUTIERREZ,

Third-Party Defendant.

CIVIL ACTION NO. 07-9452 (RWS)

**REPLY DECLARATION OF  
GARY M. FELLNER, ESQ. IN  
FURTHER SUPPORT OF  
MOTION TO DISMISS  
COUNTERCLAIMS AND THIRD-  
PARTY COMPLAINT  
PURSUANT TO FED. R. CIV.  
PROC. 12(c)**

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**GARY M. FELLNER**, of sound age and mind, declares under penalty of perjury as follows:

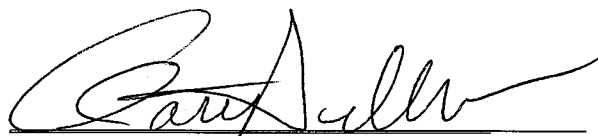
1. I am a principal of the firm of Porzio, Bromberg & Newman, P.C., attorneys for Plaintiff United Resource Recovery Corporation and Third-Party Defendant Carlos Gutierrez in the above-referenced action. As such, I have personal knowledge of the facts stated below.

2. I respectfully submit this reply declaration in further support of Plaintiff and Third-party Defendant's Motion to Dismiss Counterclaims and Third-party Complaint pursuant to Fed. R. Civ. Proc. 12(c).

3. Annexed hereto as Exhibit 1 is a true and correct copy of a November 3, 2005 e-mail from John Kohut to Carlos Guterrez.

I declare under penalty of perjury under the laws of the United States of America that the foregoing statements are true and correct.

Executed this 31<sup>st</sup> day of March 2008.



Gary M. Fellner (GF-7486)

**REDACTED**

----- Original Message -----

From: "John W. Kohut" <ramko@earthlink.net>  
To: "Carlos D. Gutierrez" <cgutierrez@urrc.net>  
Sent: Thursday, November 03, 2005 6:53 AM  
Subject: agreements

> Carlos,  
>  
> I gave you signed copies of all of the attached. Also, there is nothing  
> new in any of the attached except - the amount raised went up to \$15  
> million and the fee went from 10% to 5%. The way it reads is you pay  
> the higher of 10% of the equity placed with a cap of \$600,000 or 5% of  
> the amount actually placed (max fee under this agreement is \$750,000).  
> The prior agreement was for 10% of the equity raised without a cap. The  
> new one reduces the price so that there would be no argument whether 10%  
> of \$15 million would be do. Pretty much everything else is identical to  
> the previous ones you signed (except for the December of '04 signing  
> dates)  
>  
> You can use these copies for inclusion in the due diligence disk. You  
> should have fully signed copies of mine (in your desk). I would suggest  
> you sign them dated in late 04 (but it's up to you).  
>  
> "K"  
>

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